THE BOMBAY SALES OF INTOXICANTS TAXATION ACT, 1953

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SCHEDULE.

BOMBAY ACT No. XLVII OF 1953.[1]

[THE BOMBAY SALES OF INTOXICANTS TAXATION ACT, 1953.]

[*23rd July 1953*]

Amended by Bom. 52 of 1953.
" " " 21 of 1954.

An Act to provide for the levy of a tax on the sales of intoxicants in the State of Bombay.

WHEREAS it is expedient to provide for the levy of a tax on the sales of intoxicants in the State of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales of Intoxicants Taxation Act, 1953.

(*2*) It shall extend to the whole of the State of Bombay.

[2][(*3*) This section shall come into force at once. The State Government may, by notification in the *Official Gazette*, direct that the remaining provisions of this Act shall come into force in respect of such intoxicants specified in column 1 of the Schedule and on such date as may be specified in the notification.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " asava or arishta " means a medicinal preparation in liquid form which contains alcohol generated by a process of fermentation and which is prepared in accordance with the Ayurvedic system of medicine;

Bom. III of 1953.

(*2*) " Collector " means the Collector of Sales Tax appointed under the Bombay Sales Tax Act, 1953;

(*3*) " country liquor " means all liquor, other than foreign liquor, produced or manufactured in India;

(*4*) " duty paid foreign liquor " means foreign liquor on which,—

XXXII of 1934. VIII of 1878.

(*i*) duty leviable under the Indian Tariff Act, 1934, or the Sea Customs Act, 1878, or

Bom. XXV of 1949.

(*ii*) the excise or countervailing duty under the Bombay Prohibition Act, 1949,

has been paid and includes foreign liquor which is exempted from such duty;

(*5*) " fermented liquor " means ale, beer, milk stout, stout (porter) and cider and such other fermented liquor which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act;

(*6*) " foreign liquor " means duty-paid potable foreign liquor brought into India by sea, air or land and includes spirits, wines and fermented liquors :

Provided that the State Government may, by notification in the *Official Gazette*, declare that any specified kind of country liquor shall, for the purposes of this Act, be deemed to be foreign liquor;

(*7*) " hemp drugs" means ganja and bhang;

(*8*) " intoxicant " means foreign liquor, country liquor, spirituous medicinal preparation, non-potable liquor, opium and hemp drugs;

(*9*) " licence " means a licence granted or renewed under this Act;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1953, Part V, p. 319.
[2] This sub-section was substituted for the original by Bom. 52 of 1953, s. 2.

(*10*) "medicated or tonic wine" means a mixture or compound of any wine with medicinal substances, whether the wine is fortified with spirit or not and which is a "drug" as defined in the Drugs Act, 1940; XXII of 1940.

(*11*) "non-potable liquor" means,—

(*a*) rectified spirit,

(*b*) denatured spirit,

(*c*) methyl alcohol,

(*d*) higher alcohols, that is, amyl alcohol, butyl alcohol, capryl alcohol, propyl alcohol and fusel oil,

(*e*) any other non-potable liquor which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act;

(*12*) "opium" means,—

(*a*) the capsules of poppy (*Papaver Somniforum L.*),

(*b*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport, and

(*c*) any mixture with or without neutral materials of any of the above forms of opium;

(*13*) "prescribed" means prescribed by rules;

(*14*) "rules" means rules made under this Act;

(*15*) "sale" means a sale of intoxicants made within the State of Bombay for cash or deferred payment or other valuable consideration and includes any supply by a society or club or an association to its members on payment of price or on fees or subscription; the words "sell", "buy" and "purchase" with all their grammatical variations and cognate expressions shall be construed accordingly;

Explanation.—Notwithstanding anything contained in the Indian Sale of Goods Act, 1930, the sale of any intoxicants which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State shall be deemed for the purposes of this Act to have taken place in the said State, notwithstanding the fact that the property in the intoxicants has by reason of such sale, passed in another State. III of 1930.

(*16*) "Schedule" means the Schedule appended to this Act;

(*17*) "spirits" means brandy, whisky, rum, gin, liqueurs and milk punch and such other spirits which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act;

(*18*) "spirituous medicinal preparation" means any medicinal preparation in liquid form containing alcohol and includes a medicated or tonic wine, an Asava or Arishta;

(*19*) "State" means the State of Bombay;

(*20*) "warehouse" means any place where an intoxicant is manufactured, stored or kept for purposes other than private consumption;

(*21*) "wines" means champagne, moselle, burgundy, chianti, white wine, clarets, hocks, reisling, madeira, ginger wine, port-type, port and vermouth sherry, and such other wines which the State Government may, by notification in the *Official Gazette*, declare as such for the purposes of this Act.

Levy of tax.

3. (*1*) There shall be levied and collected on the sale of the intoxicants specified in column 1 of the Schedule a tax at the rates specified against them in column 2 thereof :

Provided that such tax shall not be levied on its sale at more than one stage between its manufacture or import and its consumption.

Bom. III of 1953.

(*2*) The tax under sub-section (*1*) shall be paid in addition to the general tax payable under the Bombay Sales Tax Act, 1953.

Manner of levying tax.

4. (*1*) Subject to the provisions of section 5, the tax under section 3 shall be levied by the Collector at the prescribed time and in the prescribed manner.

(*2*) If the tax payable under section 3 is not paid in accordance with the provisions of sub-section (*2*) of section 9, the Collector may in lieu thereof recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Collector may think it reasonable to recover.

Assessment of tax.

5. (*1*) In cases where accounts are kept and maintained and statements submitted in the manner and within the period prescribed under section 9, the tax leviable under section 3 shall be assessed by the Collector on the sale price of the intoxicants sold as disclosed in such accounts and statements.

(*2*) In cases where no such accounts are kept and maintained or where no such statements are submitted or where such accounts or statements are in the opinion of the Collector false or incorrect, the Collector shall, after making such inquiry as he thinks fit, make the assessment which he considers proper and reasonable.

Person who sells intoxicants to take out licence.

6. (*1*) Every person who sells or carries on the business of selling any intoxicant shall obtain a licence from the Collector for the sale of the intoxicant.

(*2*) Where such person has more than one shop, warehouse or place of business, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each shop, warehouse or place of business.

(*3*) Every licensee shall get his licence renewed before the date on which it expires.

Explanation.—A person who sells or carries on the business of selling any intoxicant shall include a State Government which sells or carries on the business of selling any intoxicant.

Application for, and grant and renewal of, licence.

7. (*1*) An application for licence shall be made to the Collector in the prescribed manner not later than one calendar month before the date from which the licence is required.

(*2*) The Collector shall, after such inquiry as he considers necessary, if the application is in order and subject to the provisions of sub-section (*3*) of section 10, grant a licence which shall be in such form, for such term and subject to such conditions as may be prescribed :

Provided that where a licence or permit, under the Bombay Prohibition Act, 1949, is necessary for the possession or sale of any intoxicant, no licence shall be granted to any person under this Act, in respect of such intoxicant unless he holds the requisite licence or permit under the Bombay Prohibition Act, 1949. Bom. XXV of 1949. Bom. XXV of 1949.

(*3*) Any licence granted under this section may be renewed from time to time for such further term as may be prescribed, upon application made in the prescribed manner.

(*4*) The Collector may impose for the grant or renewal of every licence such fee not exceeding Rs. 5 as may be prescribed.

No person to sell without licence.

8. No person shall sell or carry on the business of selling any intoxicant without holding a licence under section 6.

Obligation to keep accounts and submit statements.

9. (*1*) Every person to whom sub-section (*1*) of section 6 applies shall keep and maintain accounts in the form prescribed of the sale price and quantity of intoxicants sold or purchased by him and shall submit to the officer authorised in this behalf by the Collector, statements in such form and by such dates as may be prescribed.

(*2*) Every person required to furnish any statement under sub-section (*1*) shall, before the date by which such statement is submitted in the prescribed manner, pay into a Government treasury or the Reserve Bank of India on Government account the full amount of the tax due from him under this Act according to such statement and shall furnish along with such statement, a receipt from such treasury or Bank, as the case may be, showing the payment of such amount.

Suspension or cancellation of licence.

10. (*1*) Subject to such conditions as may be prescribed, the Collector may suspend or cancel a licence given under section 6,—

(*a*) if any tax payable under section 3 is not duly paid by the holder of such licence ; or

(*b*) if there is any breach of any of the conditions subject to which the licence is granted ; or

(*c*) if the holder of such licence contravenes any of the provisions of this Act or the rules made thereunder ; or

(*d*) if the holder of such licence ceases to hold any permit or licence which is necessary under the Bombay Prohibition Act, 1949, for the possession or sale of any intoxicant in respect of which the licence under this Act has been granted. Bom. XXV of 1949.

(*2*) If the licence is suspended or cancelled for any reasons, the licensee shall not be entitled to any compensation for such suspension or cancellation or to the refund of any fee paid in respect thereof.

(*3*) Where a licence held by any person has been suspended or cancelled, or where any person fails to pay any tax payable by him under section 3 or is convicted of any offence punishable under this Act or the rules made thereunder, the Collector may refuse to grant a licence to such person or to any undivided Hindu family, firm, association or society of which such person is a member or partner, or to any person who has acquired the business of such person.

Production and inspection of accounts and documents and search of premises.

11. (*1*) The Collector may, for the purposes of this Act, at all reasonable times,—

(*a*) require any person, to whom sub-section (*1*) of section 6 applies, to produce before him accounts, registers or other documents or to furnish any other information, or

(*b*) inspect the accounts, registers and other documents and the stocks of any intoxicants stored or kept in any shop, warehouse or place of business of any such person, or

(*c*) enter and search any building, vessel, vehicle or place in which he has reason to believe that an intoxicant is stored or kept for the purpose of its sale.

(*2*) If the Collector has reason to suspect that any person is attempting to commit an offence punishable under this Act, he may for reasons to be recorded in writing seize such accounts, registers or other documents of such person as may be necessary and shall grant a receipt for the same and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

Searches how made.

12. All searches made under section 11 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Power of investigation.

13. (*1*) The Collector and any person appointed to assist him who is empowered in this behalf by the State Government shall have the power to investigate all offences punishable under this Act.

(*2*) The Collector and every person so empowered shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence. V of 1898.

Penalty for contraventions or requirements under various provisions of the Act.

14. [1]*Whoever,—

(*a*) contravenes the provisions of section 8, or

(*b*) fails, without sufficient cause, to keep or maintain accounts or to submit any statement as required by section 9 or knowingly keeps or maintains false accounts or submits false statement, or

(*c*) fails to comply with any requirement made of him under sub-section (*1*) of section 11, or

(*d*) knowingly produces false accounts, registers or documents, or knowingly furnishes false information, or

(*e*) obstructs any officer making an inspection, a search or a seizure under section 11, or

(*f*) aids or abets any person in the commission of any act specified in clauses (*a*) to (*e*) of this sub-section,

shall, in addition to the recovery of any tax that may be due from him, on conviction, be punished with simple imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both ; and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

[1] The brackets and figure "(*1*)" were deleted by Bom. 21 of 1954, First Schedule.

Offences to be bailable.

15. All offences punishable under this Act shall be bailable.

Jurisdiction to try offences.

16. No Magistrate, below the rank of a Presidency Magistrate or a Magistrate of the Second Class, shall try an offence under this Act.

Power to compound offences.

17. (*1*) The Collector may accept from any person who has committed an offence punishable under this Act or the rules made thereunder by way of composition of such offence, such sum of money as the Collector may fix, which shall not exceed,—

(*i*) a sum double the amount of the tax payable under section 3 in respect of any sales conducted by such person, or

(*ii*) one thousand rupees,

whichever is greater.

(*2*) On the payment of such sum to the Collector, the accused person shall be discharged and no further proceedings shall be taken against such person in respect of such offence.

Delegation of power by Collector.

18. Subject to the general or special orders of the State Government, the Collector may delegate any of the powers conferred upon him by or under this Act or the rules framed thereunder to any person appointed to assist him under the Bombay Sales Tax Act, 1953, not below the rank of a Sales Tax Officer (Junior). Bom. III of 1953.

Licence fee and other dues to be recoverable as arrears of land revenue.

19. All sums payable as taxes, fees or penalties under section 3, 4 or 7 shall be recoverable as arrears of land revenue.

Officers to be public servants.

20. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of person acting in good faith and limitation of suits and prosecutions.

21. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any officer of Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit shall be instituted against the State and no prosecution or suit shall be instituted against any officer of Government in respect of anything done or intended to be done, under this Act unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Appeal and revision.

22. (*1*) Within sixty days of the making of any order under this Act, other than an order made by the Collector, any person aggrieved by such order may, in the prescribed manner, appeal to the prescribed authority against such order.

(*2*) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-sections (*3*) and (*4*), be final.

(*3*) Subject to such rules as may be made in this behalf and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person to whom he has delegated any of his powers under section 18;

Provided that—

(*a*) no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order ;

(*b*) before rejecting any application for the revision of any such order, the Collector shall record reasons for such rejection ; and

(*c*) before any order is passed under this sub-section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(*4*) The State Government may, at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

Power of Government to exempt class of persons and any intoxicant from Act.

23. The State Government may, by rules made in this behalf, exempt any class of persons or any intoxicant from all or any of the provisions of this Act if the State Government is satisfied that in public interest such exemption is necessary.

Power of State Government to reduce rate of tax.

[1][**23A.** The State Government may, by notification in the *Official Gazette* reduce the rate of tax leviable on the sale of any intoxicant specified in column 1 of the Schedule.]

Power to make rules.

24. (*1*) The State Government may, for the purposes of carrying out the provisions of this Act, make rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the State Government may make rules for the following matters, namely :—

(*a*) the stage and time at which and the manner in which the tax shall be levied under section 4 ;

(*b*) the manner of making an application, the form, term and conditions of licences under section 7, the term of renewal and the fees for the grant or renewal thereof ;

(*c*) the form of accounts to be maintained and of statements to be submitted, the dates by which and the manner in which such statements are to be submitted under section 9 ;

(*d*) the conditions subject to which a licence may be suspended or cancelled under section 10 ;

(*e*) the manner in which, and the authority to which, appeals against any order under this Act may be preferred under section 22 ;

(*f*) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under section 22 ;

(*g*) the conditions and restrictions subject to which any class of persons or any intoxicant may be exempted from all or any of the provisions of this Act under section 23 ;

(*h*) any other matter which is required to be or may be prescribed.

[1] This section was inserted by Bom. 52 of 1953, s. 3.

(*3*) Any rule made under this section may provide that any person contravening any such rule shall be liable, on conviction, to be punished with a fine which may extend to one hundred rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication and shall be published in the *Official Gazette*.

Act and rules not to apply to certain sales or purchases.

25. Nothing in this Act or the rules made thereunder shall apply to any sale or purchase of any intoxicants or impose or authorise the imposition of a tax under this Act on any sale or purchase of any intoxicant, where such sale or purchase takes place—

(*a*) (*i*) outside the State ; or

(*ii*) in the course of the import of the intoxicants into the territory of India, or the export of the intoxicant out of such territory ; or

(*b*) in the course of inter-State trade or commerce, except in so far as Parliament may by law otherwise provide,

and the provisions of this Act and the said rules shall be read and construed accordingly.

Explanation.—For the purpose of clause (*a*) (*i*), a sale or purchase shall be deemed to have taken place in the State in which the intoxicant has actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that State, notwithstanding the fact that under the general law relating to sale of goods the property in the intoxicant has by reason of such sale or purchase passed in another State.

Non-application of Bombay Sales Tax Act, 1953, to intoxicants.

26. Nothing in the Bombay Sales Tax Act, 1953, in so far as it provides for the levy of special tax under the said Act shall apply to the sale or purchase of any intoxicant on the sale of which a tax is levied under this Act. Bom. III of 1953.

SCHEDULE.

(*See* section 3.)

Name of Intoxicant.	Rate of tax.
1	2
1. (*i*) Foreign liquor (*ii*) Country liquor.	... Six annas in the rupee of the sale price.
2. Spirituous medicinal preparations.	Four annas in the rupee of the sale price.
3. (*i*) Non-potable liquor (*ii*) Opium. (*iii*) Hemp drugs.	... One anna in the rupee of the sale price.